



**The Old Berlin Cemetery  
(Formerly known as Bethany Lutheran Church Cemetery)**

**CEMETERY PRESERVATION PLAN**

West B St and Delaware Ave  
Brunswick, MD 21716



City of Brunswick  
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## Site History

"The Berlin Cemetery is the earliest known cemetery in the City of Brunswick, Maryland (Brunswick was known as Berlin until 1890). The cemetery is located in our National Register Historic District. A 1799 advertisement in the Frederick Town newspaper, *The Gazette*, refers to a half acre lot in Berlin that was used as a burying ground. The earliest gravestone in the cemetery is marked "M.C. 1810". According to Jacob Mehrling Holdcraft's book *Names in Stone*, there was an earlier gravestone - that of John Shephard, who died in 1806. Most of the burials took place between 1890 and 1910.

The cemetery is also known as the old Lutheran Cemetery because the land was owned by the Bethany Evangelical Lutheran Church of Brunswick since 1892. It was deeded to the town of Brunswick in 1947. There are about 150 known names of people buried in this cemetery. Today, about 70 gravestones remain. It is no longer an active cemetery.

The people buried there represent early Brunswick/Berlin and its place in history. Those who fought in Civil War battles, built the railroad, tended locks on the C&O Canal, worked on our farms, fished on the Potomac River, and maintained households and businesses during the heyday of the railroad in Brunswick are buried in this cemetery. Federal census records and local histories reveal information about these departed people. Some of the names have descendants still living in Brunswick today. "

Source: Preservation Maryland Grant Application

For a more complete history of the Cemetery, please see the history compiled by the Old Berlin Cemetery Preservation Society in Appendix 1.

## Project History

In 2015 the City of Brunswick applied for and was awarded a grant from Preservation Maryland to assess the condition of the cemetery and create a Preservation Plan. Additional funding came from the City of Brunswick.

This project was managed for the City of Brunswick by Diane Ellis and Jeff Batson, community volunteers interested in cemetery preservation. They found an arborist to assess the various trees growing on the cemetery grounds. Ground Penetrating Radar Systems, Inc. was hired to perform a sub-surface survey. Wellman Conservation was hired to assess the gravestones and other visible features of the cemetery, and consolidate all the above information into this Preservation Plan.

This Preservation Plan will address:

- Mapping and identification of cemetery monuments and features, both visible and sub-surface,

- Condition assessment and conservation treatment proposals of all visible cemetery monuments with budget,
- Assess the viability of all existing trees and plantings for care or removal,
- Assess the appropriateness of installing a perimeter fence or wall to protect the cemetery from vandalism and vehicular trespass,
- Assess an appropriate location and design for installing a monument or memorial to the unmarked graves, incorporating “orphaned” gravestones that have been removed from their proper locations,
- Advise and consult with the Client’s landscaper on the location and design of such a memorial, walkways, etc.

## **Ownership and Administration**

The cemetery property is owned by the City of Brunswick. It is located within the Brunswick Historic District, on the National Register of Historic Places. However, this particular property was not listed as a contributing site in the National Register application.

Brunswick is an incorporated municipality and there is no local historic preservation commission. The Mayor and Council of the City of Brunswick have the authority to review, comment on, and veto any proposed action at this property. The Brunswick Planning Department would be asked to review the plan if it involves building any structures, including fences, or putting up signs.

The Frederick County Planning & Permitting office would only be involved if permits and inspections are required. There is a Frederick County Historic Preservation Commission, but our understanding is that their jurisdiction is limited to unincorporated land in the county.

The cemetery is not listed in the Maryland Inventory of Historic Properties, although the Brunswick Historic District as a whole is listed.

-Information courtesy of Diane Ellis



Aerial photo of Old Berlin Cemetery overlaid with historic plat. Courtesy J. Batson



## Maryland Cemetery Law

The law pertaining to the care and protection of cemeteries in the State of Maryland is attached as Appendix 6. In summary, most basic maintenance procedures to preserve infrastructure, fences, gravestones, tombs, and landscaping are allowed without hindrance, but the disturbance or removal of burials require special permits and permissions from the States Attorney.

- Information courtesy Nancy Kurtz, Maryland Historical Trust

## Historic Preservation Standards

The process of historic preservation should not be considered as “beautification;” rather, it is about retaining and maintaining the significant features and overall character of a historic place so that it can visually impart to visitors its history and significance. The key to achieving this goal is through retention of integrity.

Source: City of Rockville Dept. of Planning: *Rockville Cemetery Historic District Design Guidelines*.

“Improvements” also can affect historic integrity. Replacing a simple post and wire fence with a brick wall, modest slate headstones with elaborate monuments, and natural growth with nursery plantings all reduce integrity, however well-intentioned. Although beautification efforts may make a cemetery more attractive, replacing the original features diminishes the cemetery’s authentic historic character. Changes that occurred during the historic period, however, may reflect cultural beliefs and practices and contribute to a cemetery’s significance.

Source: National Register Bulletin 41, p. 4

While this cemetery is no longer active, it remains at the heart of the Brunswick community and represents a significant part of Brunswick’s rural and industrial history. This Preservation Plan intends to provide recommendations and guidelines for conserving and preserving the existing gravestones, monuments, and other cemetery features. Where appropriate, it will also give recommendations on additions and improvements, including the creation of a boundary fence and interpretive areas utilizing new signage and the placement of “orphaned” monuments that are separated from their original gravesites.

To this end, all recommendations will be based on the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties (See Appendix 3).

## Subsurface Survey

A ground-penetrating radar survey was performed at the cemetery in May 2015. The survey was conducted by Jeremy Campbell of Ground Penetrating Radar Systems Inc. Mr. Campbell's full report is attached to this Master Plan, and is summarized below:

The equipment used was a Geophysical Survey Systems Inc. (GSSI) SIR-3000 radar unit with a 400 MHZ GSSI Antenna. The system was mounted on a three-wheeled cart which was pushed across the site in transects, but also allowed for easy re-scanning of specific sites.



Mr. Campbell with the GPR system.

Mr. Campbell noted multiple points of interest that he divided into three types:

- Data typical of buried object/coffin/etc., which was determined by running the scanner both north/south and east/west across the spot to determine the width and length of the anomaly.
- Data typical of "marker" and disturbance areas of concern: these points are smaller in extent, and the data tend to indicate a depth of burial rather than extent.
- Data of typical soil disturbance, and/or lack of discernable/typical "markers": "These have less discernable anomalies for consideration and may be indicative of aged/degraded sites and/or the potential for the non-existence of grave sites. However, there can be numerous unknown conditions which may be causal to this data." (report by J. Campbell, GPRS, Inc., p10.)

The anomalies and points noted were collected as data points with Global Positioning System (GPS) location data, and were also marked on the ground with spray paint.



Left: Ground markings for a buried object or coffin. Photo courtesy J. Campbell, GPRS, Inc.

Right: Ground markings for a possible marker or disturbed area. Photo courtesy J. Campbell, GPRS, Inc.



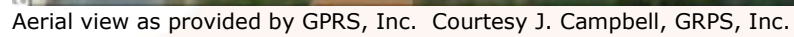


Data of typical soil disturbance, and/or lack of discernable/typical "markers". Photo courtesy J. Campbell, GPRS, Inc.

The locational data points were converted and overlaid on an aerial photograph of the site by Aaron Hunt of True Point Scanning. The resulting image was also modified by Jeff Batson in consultation with Mr. Campbell. The resulting image depicts Mr. Campbell's three types of anomalies as either distinct points or as larger areas.

Mr. Wellman, Mr. Campbell and Mr. Hunt had an email conversation trying to define the accuracy of the data point locations. In our opinion, without performing additional traditional land surveying measurement or "ground-truthing" the locations by archaeological test excavations, the data points must be used with the understanding that there is an inherent location error up to several meters. On the other hand, Mr. Campbell's actual on-ground paint markings are the best indicator of where there may or may not be sub-surface artifacts or features.







GPRS, Inc. map as modified with suggestions by J. Batson. Courtesy J. Batson.



## Trees and Landscape

The cemetery is an open space with only three significant plantings. There is a very large sycamore tree, a clump of two maples, and a small unidentified sapling. The remainder of the property is covered with turf.

Licensed arborist Tony Murdoch volunteered to assess the condition of the large sycamore on the property. The full notes from this assessment are attached as Appendix 4, together with a copy of a letter from the Department of Natural Resources with further notes about this significant tree. As of 1992, this was considered to be the largest sycamore in Frederick County.



Left: unidentified sapling



Right: Sycamore after vine removal



Maples after vine removal



## Landscape Maintenance

In July 2015, a group of volunteers undertook maintenance of the trees on the property following the recommendations of Mr. Murdoch. This included removing vines from the sycamore and the maples, removing underbrush from beneath the maples, and trimming the sapling up above the gravestones hidden beneath it.

Long-term maintenance recommendations for the landscape are to continue control of the vines and undergrowth, mulch under the sycamore and have an arborist provide deep-root fertilization for the sycamore.

The turf should be maintained by periodic mowing. The mowers must take care to not hit or chip the gravestones. If a string trimmer is used to trim grass and weeds adjacent to gravestones, use #8 cord with a 6" disk guard to minimize the impact of the string on the stone surface, per recommendations by professional cemetery restorer Robert Mosko.

(<http://www.rootsweb.ancestry.com/~mdcpmbbs/winter2015.pdf> , pg. 5.)



## Infrastructure

The cemetery has no visible roads or paths. No paths were detected in the ground-penetrating radar survey. The cemetery has no utilities such as electrical or water supply. There are no standing structures such as sheds or vaults.

Addition of any visible structures or facilities would have to be in accordance with historic preservation standards so that any additions do not detract from the historical accuracy of the site, or present a false sense of history by pretending to be original structures.

## Fences

### Boundary Fence

There is no general fence around the property. The City may propose to install a fence to control access and improve the appearance of the property. An appropriate fence would be something like a post and chain fence, which would provide the necessary effects while not attempting to create a false sense of history.

Based on the sub-surface survey, there do not appear to be historic features on the perimeter of the site. But given that post footers would need to be at least 24" deep, we recommend that an archaeological monitor be present when footers are dug.

### Plot Fences

There are three plot fences:

- Evans Family Plot: approximately 94' of aluminum chain link fence surrounding the plot. The fence is stable, but requires painting.



#### Evans plot fence

- Barger Family Plot: approximately 63' of cast iron fence on two sides, including a loose 4' section. The fence is solidly set in the ground. It is corroding and requires repainting. Also 32' of aluminum chain link fence connected to the iron fence. The chain link needs fasteners to connect it to the rails and posts, and needs a top rail.



Barger Plot Fence



- Ray Family Plot: one iron fence post, no fencing. It is corroding and requires repainting.

#### Fence Maintenance

Fences should be maintained as is, and not replaced with anything "more historic". Replacement of modern fencing with historic fencing should only be done with complete documentary proof that such historic fencing did exist at some time in the past.

Metal fences can be maintained by removing failed paint and loose corrosion products with an iron wire brush, then repainting with a rust converter, followed by a zinc-rich primer, followed by an alkyd enamel top coat in the appropriate color. National Park Service "How To" videos on fence maintenance can be found at: <https://www.youtube.com/watch?v=6fAacWpM8XQ> or at the website of the National Center for Preservation Training and Technology ([www.ncppt.nps.gov](http://www.ncppt.nps.gov)).



## Conservation Condition Assessment: Visible Gravestones

In May 2015, Howard Wellman undertook an inventory and assessment of all visible gravestones in the cemetery.



Mr. Wellman dusting a gravestone to read the inscription. Photo courtesy J. Batson.

The survey describes each gravestone by material and style and identifies it by the major inscribed name and death date. Full inscriptions are not collected. Photos were taken of each monument and uploaded to the "Billion Graves" website for transcription ([www.billiongraves.com](http://www.billiongraves.com)) under the name "Old Lutheran Cemetery".

The condition data is collected in a spreadsheet and is assessed by a graded system developed by Mr. Wellman. This system assigns a numerical score from 0 to 3 in each of six condition categories:

- Soiling: the degree of surface soiling is graded from 0=no soil to 3= heavy biological growth or chemical staining.
- Surface: the fragility of the surface is graded from 0=stable with no losses to 3= very unstable, losses greater than 50%.
- Body: the stability of the body of the stone is graded from 0=stable with no losses to 3=collapse and major losses.
- Structure: the stability of the overall monument elements graded from 0=stable, perhaps slight lean to 3=collapse and major damage.
- Foundation: the stability of the foundation (if it can be assessed) graded from 0=stable, perhaps slight lean to 3=collapse and major damage.
- Significance: the significance of the monument, graded from 0= normal significance to 3= extremely significant for historical or cultural reasons. This criterion is decided by the Client, and incorporated into the final assessment by the Conservator.

The spreadsheet sums up the ratings and scores each gravestone on a scale from 0 to 18, with the highest score indicating gravestones with the most significant problems.

The Conservator also records the most obvious problems with the gravestone and a brief treatment recommendation. This, combined with the assessment score, provides a triage-style treatment priority.

The complete spreadsheet is attached as Appendix Five, first sorted by inscribed name(s), then by condition assessment score, then by triage treatment priority.

### Summary of Findings

There are 64 distinct monuments (some in multiple pieces, or a headstone/footstone group), not counting 66 small unattributable fragments or base blocks. Of these, 34 are considered “orphans”, assumed to be removed from their original locations. Most of these orphans are lying flat on the ground in a straight line just south of the maple trees. Several of the orphans can be associated with other monuments, some themselves orphans, others located elsewhere in the graveyard. These associations are noted in the spreadsheet.

### Grouped by condition score:

- Thirteen monuments have scores of 4 or less. These scores can be attributed to low levels of soiling and minor surface erosion that is common to any monument. These monuments typically require no treatment.



Example of low condition score: Minimal soiling and erosion.

- Twenty-eight monuments score between 5 and 7. These scores result from monuments that have fallen from their bases, or orphaned stones

that need to be set up in an appropriate location. Treatment for this type of problem is usually a simple resetting on the original base, or the creation of a new foundation on which to set the monument.



Example of medium condition scoring: fallen, needs to be reset, minimal other soiling or damage.

- The final twenty-three monuments score from 8 to 12. The higher scores result from either the need to replace larger foundations, or to reassemble broken stones.



Example of high scoring monument: disassociated pieces (including a footstone not pictured), body cracks, loose on the base stone.



## Treatment Priorities

While the condition scores give an overall sense of the types of damage found in the monument collection, treatment priorities may be more properly assigned via a “triage” plan. In this sense, priority is assigned in the following categories:

- #3, Lowest priority: undamaged and generally soiled monuments, fragments and unattributable “orphans”. These monuments do not need to be considered for treatment.
  - Twelve monuments (plus the 66 miscellaneous fragments) fall into this category.



Example of a low priority monument

- A note on cleaning: Wellman Conservation does not advocate wholesale cleaning of gravestones without a distinct plan and reason for such cleaning. Valid reasons for cleaning include a totally obscured surface that requires documentation or fragmented gravestones that will be repaired. Old marble gravestones typically have very fragile surfaces, and even the gentlest cleaning can accelerate the erosion of the surface. Most stone cleaning is to remove biological growth and that growth will always recur, leading to a cycle of re-cleaning and more erosion. Some scientists believe that some biological growth may protect stone surfaces, but the research is inconclusive at this time.
- #2, Medium priority: stones that have already fallen or broken, and can come to no further damage. These monuments may be scheduled for treatment at some time in the future.

- Forty-two monuments fall into this category. The nature of their damage means that they may actually be the hardest and most expensive to repair, another reason to attend to high priority items first.



Example of a medium priority monument; treatment needed, but currently in no danger.

- Thirty-five of these monuments are “orphans” some of which may be associated together, but all will need to be assigned a new location.
- #1, Highest priority: leaning, rocking, or cracking stones that may fall or suffer accidents, leading to more damage, or may represent public safety hazards.
  - Ten monuments fall into this category, requiring foundation repairs, resetting on new pins, and straightening. One monument may require more intensive crack filling.



Example of high priority gravestone; loose and rocking on its base.

### Treatment Costs

Cost estimates are difficult to ascribe precisely due to different labor rates used by different contractors. Wellman Conservation LLC prices are based on a labor rate of \$110/hr for senior conservators. The estimates include time for photo-documentation of each monument and the writing of treatment reports. Materials are a minor cost, except where large foundations must be poured or where major repairs and gap-fills are required. There can be economies of scale, such as digging and pouring multiple foundations at one time. A table of estimated costs can be found in Appendix 7. The estimates quoted there are for planning and budgeting purposes only and do not constitute a bid for services.

- Priority 1 monuments will usually take one or more working days to disassemble, dig and pour new foundations (if needed), and to reassemble.
- Priority 2 monuments which require only resetting on existing foundations may take 2-4 hours. Larger monuments like obelisks that require special handling will take more time for handling.
- Priority 2 monuments which require new foundations will take up to one day, based mostly on digging and pouring foundations.
- Any monument that requires repair of breaks or installing new pins may add 1-3 hours.

### Community Involvement and Education

Cemetery preservation is a unique opportunity to involve community members and volunteer groups in valuable educational activities. The use of volunteers can significantly reduce the labor costs of cemetery conservation, since labor is the largest component of almost all the tasks.



Volunteer preservation organizations like the Coalition to Protect Maryland Burial Sites (CPMBS) and the Association for Graveyard Studies (AGS) regularly hold cemetery conservation training sessions which serve to both educate their members and provide valuable services to sites with limited funding. Scout groups and other community service organizations can also contribute time and effort to appropriate activities like grounds-keeping and fence maintenance.

Repair, maintenance, or cleaning of gravestones by families or the general public without supervision by a professional conservator should be discouraged. Over-cleaning can destroy fragile surfaces, and inappropriate repair materials (epoxies, caulks, body fillers) can do irreparable damage. Maintenance and repairs should be done in consultation with professional stone conservators.

Wellman Conservation has provided training and supervision for several such projects.



## Cemetery Interpretation and Use

The Old Berlin Cemetery is no longer an active cemetery, but is located in the heart of the community and within the borders of the National Historic Register District. It is a green space in the middle of a dense residential neighborhood on the edges of a retail and industrial area. This creates a unique opportunity to create an historical and cultural interpretive area that utilizes the existing resources of the cemetery.

The most important issue to recognize is that this is still a holy space dedicated to the memories of the people buried there. The family names on the gravestones are still found in the community. With this in mind, after repairing gravestones under threat of further loss, one of the first priorities should be to appropriately re-install the "orphaned" gravestones.

While there is no surviving plan of the cemetery that will tell us how to put these stones back in their original locations, placing them within the boundaries of the cemetery in appropriate fashion can enhance the historic interpretation of this site without violating historic preservation standards.

These could be moved to better define a space, but in a way that makes sense; both in terms of the persons the stones represent, if that is known, and to enhance or serve as focal points in their new locations.

One proposal is to place all the misplaced stones in a central area dedicated to the other unmarked burials. This would also be convenient for the installation of a plaque remembering the lost burials, some of whose names are known.

An alternate proposal would be to use the large open space at the south end of the cemetery to create a series of smaller plots as interpretive areas. Each plot could use a selection of orphaned gravestones to illustrate historical and cultural aspects of Brunswick, such as immigration, industrial development, family life, etc. There is also the rich history of the site itself, including its various owners and alternate uses (as a baseball field, for example) through time. This would require some research into the families represented by these stones, but allows for a more interactive use of the site.

An appropriate related use of the space would be as a green space for the community. Cemeteries are often used for quiet recreation in urban centers, a tradition that crystallized with the "rural cemetery movement" of the 19<sup>th</sup> century. The second proposal above would align well with this concept, creating small spaces appropriate for meditation, teaching, picnicking, tourism, etc.

These concepts fit within the historic preservation standards quoted in appendix three:

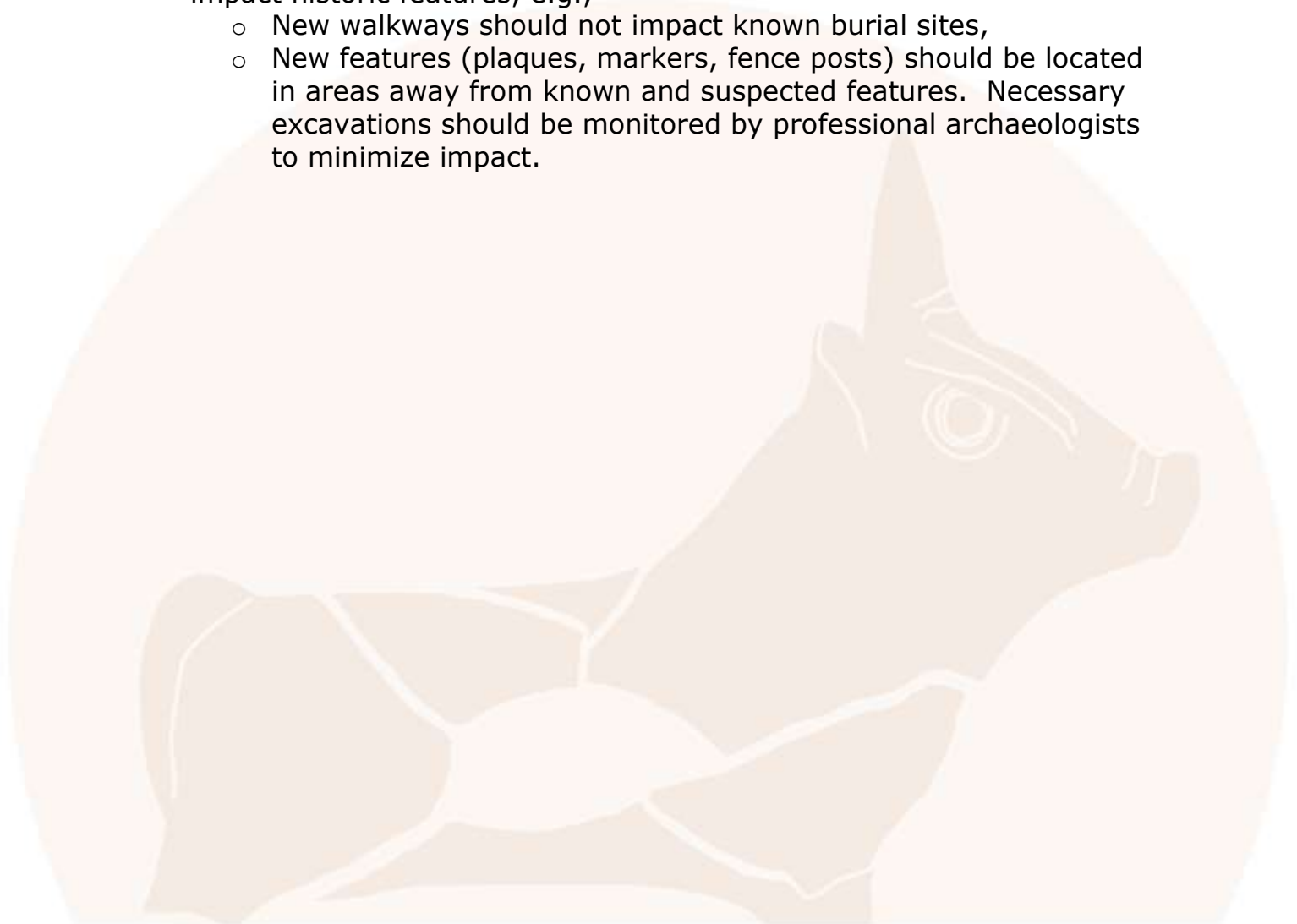
*"Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time."*

But it is not incompatible with:

*"Rehabilitation acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character"*

Either of the proposals noted above (or alternatives yet to be discussed) can work within these standards by adhering to a few simple guidelines:

- Do not relocate, remove or alter (other than appropriate repair or maintenance) existing historic features.
- Relocation of orphaned gravestones must be done in such a way as to make clear that they are not in their original locations.
- Addition of new features must be planned so as to not create a false sense of history, e.g., installing a gated entrance, fences, or other structures in period style where none existed before.
- Additions must be implemented in a way so that they will minimally impact historic features, e.g.,
  - New walkways should not impact known burial sites,
  - New features (plaques, markers, fence posts) should be located in areas away from known and suspected features. Necessary excavations should be monitored by professional archaeologists to minimize impact.



## Acknowledgements

Funding for this project was provided in part by Preservation Maryland and the Maryland Historical Trust and the City of Brunswick.

Thanks to Diane Ellis, Jeff Batson, and Nancy Kurtz for sharing images and research.

Thanks to Kirsti Uunila, Calvert County Dept. of Planning, for proofreading.

## Recommended Reading

Strangstad, Lynette. *A Graveyard Preservation Primer*. Altamira Press, 1995.

Chicora Foundation. *Recording Historic Cemeteries: A Guide for Historical Societies and Genealogists*. 1998.

Keister, Douglas. *Stories in Stone: A Field Guide to Cemetery Symbolism and Iconography*. Gibbs Smith, Publisher, 2004.

Historic Scotland. *Guide for Practitioners No. 2: Conservation of Historic Graveyards*. 2001.

City of Rockville Historic District Commission and Dept. of Planning. *Rockville Cemetery Historic Design Guidelines*. date unknown.

Boston Parks and Recreation Department. *The Boston Experience: A Manual for Historic Burying Grounds Preservation*. 1989.

Meier, Lauren, and Betsy Chittenden. *Preserving Historic Landscapes*. National Park Service Reading List series. Washington D.C.: U.S. Department of the Interior, National Park Service, Preservation Assistance Division, 1990.

National Park Service. *National Register Bulletins Guidelines for Evaluating and Registering Cemeteries and Burial Places (#41)*.



## Appendix 1: History of Old Berlin Cemetery (courtesy of OBCPS)

The Old Berlin Cemetery  
(Formally known as Bethany Evangelical Lutheran Church)



### Background

The Berlin cemetery is located along Delaware Ave on the West side of Brunswick, MD. It was originally started as a private cemetery by Joseph Waltman, who owned much of the land before it became Brunswick. When he passed away in 1870, the cemetery, along with his land, was willed to his brother-in-law, William W. Wenner - who kept it until his death in 1892 when the property was willed to his oldest son, another William Wenner. On February 18th, 1914, he granted legal custody of the 1/2 acre cemetery to the Bethany Evangelical Lutheran, who was preparing to settle in from across the river in Virginia. But after roughly 30 years of delays, the church decided not to proceed with their plans and transferred the deed over to the City in 1947, who still have possession over it today.

In 1890, Brunswick became a Boomtown, due to the B&O railroad's arrival. Thousands of jobs were created. The population of Brunswick went from 500 in 1890, to over 2,500 by 1900. During this time, the Wenners, seeing the need, allowed the cemetery on their land to

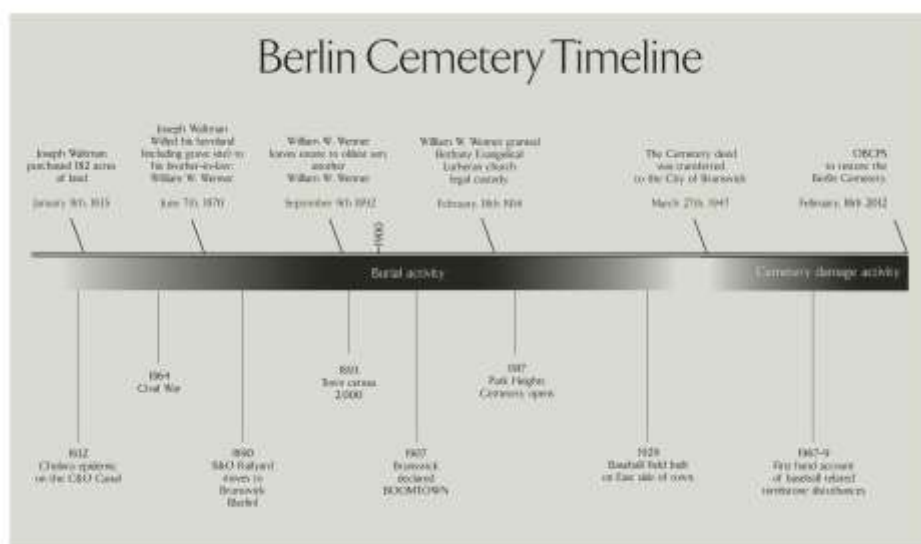
continue to be used for their fast-growing community. The Lutheran church took no part in any of the burials that occurred in the cemetery during this time. Individual families buried their dead with and without monuments.

By 1910, 3/4 of the cemetery had been filled. Then in 1917, Park Height Cemetery was built to assume the role of the town's active cemetery, because the original cemetery was filling up quickly. In fact, by 1922, the cemetery was full (news article)

No surprise the Lutherans ever acted on their plans to build a church there. They deeded the property over to the city of Brunswick in 1947 (The city more or less HAD to take it).

In 1929, the YMCA (backed by B&O railroad) constructed Brunswick's first baseball park up on New York Hill. And baseball in Brunswick was born. Of course, the West side of Brunswick wanted a baseball field too, but they didn't get it. So the cemetery slowly transformed into a baseball field. Headstones were knocked over and removed to create an improvised field. No one knows where they all went. We spoke with a local who actually took part in knocking the headstones over and stacking off to one side - leaving 4 to use as bases. Indeed there were some adults who actually encouraged it. This was back in the late 1960's. Today, there are roughly 70 headstones left in the cemetery - most still stacked over to the side. The ones missing, we'll probably never recover. Today we've gathered nearly 150 recorded burials with only 70 or so headstones.

In 1959, a man named Jacob Holdcraft dropped in on our cemetery to record headstone information for his book entitled, "Names In Stone." It was published in 1966. In it, his list accounts for 78 headstones.



Today, we're down to 70. The ones we have, we want to restore as best we can. We've been on the hunt for old photos of the cemetery. We've run ads in the Brunswick Citizen, our local paper. We've had conversations with a lot of the citizens who grew up in this community. So far, we've turned up nothing. But something has to be done. The headstones laying face down in the ground are eroding at an alarming rate.

Over the summer we found a church in Virginia which dealt with a similar situation in an interesting way. Their headstones were gathered and replaced in a central location of the cemetery.

It is our current plan to create something similar, only taking it further to become more of a monument. This is where you come in.



Cemetery in Virginia



Current Proposal



Appendix 2: Lists of Burials in the Old Berlin Cemetery (courtesy D. Ellis, OBCPS)

BURIALS AT OLD LUTHERAN CEMETERY, BRUNSWICK, MD			
(From Tombstone Inscriptions)			
END OF BRUNSWICK STREET			
NAME:	BORN	DIED	
Allen, Julia	25 Feb 1849	29 Nov 1881	
Allen, Johanna	3 Sep 1881	12 Nov 1881	
Allen, ?	9 Jan 1878	11 Aug 1878	
Baugh, Laura V.	12 Nov 1865	3 Sep 1905	
Baugh, Leonard	15 Apr 1833	11 Nov 1901	
Baugh, Elizabeth	28 Oct 1845	24 Oct 1902	
Baugh, John C.	27 Sep 1872	15 Jan 1895	
Baugh, Arthur	1838	Aug 1849	
Baugh, Etha J.	18 Mar 1866	12 Feb 1916	
Beall, Eleanor R.	8 May 1813	5 Jan 1892	
Betcher, John	1826	2 May 1845	
Brisson, Michael	1893	22 Apr 1954	
M. C.		10 Apr 1810	
Catlett, Delphia	22 Jan 1890	9 Feb 1892	
Catlett, Lena M.	28 Nov 1891	20 Feb 1892	
Cooper, Elizabeth	6 Jan 1854	29 Apr 1891	
Dann, William E.	23 Mar 1862	9 Jan 1885	
Elliott, Susanna	30 Aug 1818	28 Feb 1888	
Elliott, William W.	10 Jun 1818	20 Mar 1885	
Evans, Amos E.	1873	1902	
Evans, Virginia S.	1864	1967	
Evans, William L.	1898	1918	
Fornest, Claud B.	12 Aug 1883	21 Jul 1908	
Fornest, Thomas J. C.	16 Oct 1865	16 Jan 1897	
Fornest, Henry			
Fornest, Charles E.			
Haller, Arlington G.	15 Oct 1898	10 Jul 1910	
Haller, Charles W. C.	7 May 1892	31 Dec 1894	
Haller, Joseph E.	20 May 1895	10 Mar 1896	
Hanes, Raymond W.	18 May 1896	3 Mar 1897	
Hines, Mary A. V.	22 Jul 1833	21 Mar 1871	
House, Arthur C.	21 Aug 1860	30 Aug 1901	
House, Charles M.			
House, L. S.	7 Feb 1844	20 Jan 1929	
House, Mark E.	15 Mar 1852	28 Aug 1915	
Hutts, Emma	25 Apr 1854	29 Nov 1909	
Kidwell, Hezekiah	6 Jun 1828	4 Dec 1886	
Kidwell, Cecelia A.	24 Nov 1830	14 Feb 1899	
Kidwell, Frances	20 Jun 1864	23 Feb 1868	
Kidwell, Wilford D.	29 Aug 1868	23 Jul 1916	AGE 47 YRS, 10 MO, 25 DAY
Kidwell, Martha E. (Sisapoose)	13 Mar 1862	15 Apr 1926	AGE 64 YRS, 1 MO, 2 DAY
Kidwell, William H.	1874	1931	
Kidwell, Mary Anne	1867	1908	
Kidwell, Raymond E.	8 Aug 1891	10 Feb 1905	AGE 17 YRS, 6 MO, 2 DAYS
Kidwell, Martin E.	8 May 1899	13 Mar 1903	AGE 3 YRS, 10 MO, 5 D
Kidwell, Lillian G.	6 Apr 1876	19 Sep 1946	
Leopold, John H.	2 Apr 1807	30 Mar 1877	

☐ Date on Stone



Leopold, Julia A.	14 May 1811	4 Jul 1883
Leopold, Joseph F.	28 Jul 1862	7 Oct 1872
Lutman, Hattie M.	6 Feb 1881	8 Sep 1913
Musgrove Infant		Aug 1877
Musgrove Infant		Aug 1877
Musgrove, Cora L.	9 Dec 1877	9 Feb 1879
Musgrove, Elbert Roy		
Noland, Viola E.	25 Oct 1895	10 Oct 1897
Orndorff, Bezechial	6 Oct 1856	13 Jun 1904
Ray, Eliza		31 Jan 1884
Ray, Harvey J.	5 Apr 1885	9 Oct 1905
Ray, William E.	4 Oct 1879	15 Jan 1908
Ray, William J.	10 Oct 1847	4 Apr 1885
Ray, Margaret A. R.	8 Sep 1850	29 Oct 1871
Ray, William W.	28 May 1872	8 May 1878
Reich, John H.	23 Aug 1839	8 Dec 1877
Rhoades, Ann	1860	14 Nov 1874
Ridenbaugh, Samuel J.	4 Aug 1864	3 Jul 1912
Ridgeway, Clara A.	18 Dec 1891	18 Mar 1892
Shelton, Johnnie R.	30 Dec 1896	29 Jul 1897
Shepherd, John		1806
Shilling, Catherine	1804	26 Mar 1886
Shilling, John	31 Mar 1869	3 Sep 1890
Shilling, Thomas	1840	30 Mar 1902
Short, John E.	28 Jul 1849	5 Jun 1857
Short, Sarah Margaret	1881	1858
Sigafoose, H. M.		
Sigafoose, Hellen	1833	17 Mar 1871
Sigafoose, John S.	13 Mar 1832	4 Apr 1908
Snyder, Charles W.	28 Aug 1905	19 Apr 1906
Snyder, Edgar F.	31 Jul 1904	31 Aug 1904
Watkins, John W.	22 Feb 1870	24 Jan 1902
Watkins, James M.		

## Appendix Three: Secretary of the Interior's *Standards for the Treatment of Historic Properties*

- “[Preservation](#)” focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time.
- [Rehabilitation](#) acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character.
- [Restoration](#) depicts a property at a particular period of time in its history, while removing evidence of other periods.
- [Reconstruction](#) re-creates vanished or non-surviving portions of a property for interpretive purposes.
- The choice of treatment depends on a variety of factors, including the property's **historical significance, physical condition, proposed use, and intended interpretation**. Historic buildings are used as an example below. The decision making process would be similar for other property types.
- **Relative importance in history.** Is the building nationally significant? Is it a rare survivor or the work of a master architect or craftsman? Did an important event take place in it? National Historic Landmarks, designated for their "exceptional significance in American history," or many buildings individually listed in the National Register often warrant Preservation or Restoration. Buildings that contribute to the significance of a historic district but are not individually listed in the National Register more frequently undergo Rehabilitation for a compatible new use.
- **Physical condition.** What is the existing condition, or degree of material integrity, of the building prior to work? Has the original form survived largely intact or has it been altered over time? Are the alterations an important part of the building's history? Preservation may be appropriate if distinctive materials, features, and spaces are essentially intact and convey the building's historical significance. If the building requires more extensive repair and replacement, or if alterations or additions are necessary for a new use, then Rehabilitation is probably the most appropriate treatment.
- **Proposed use.** An essential, practical question to ask is: Will the building be used as it was historically or will it be given a new use? Many historic buildings can be adapted for new uses without seriously damaging their historic character. However, special-use properties such as grain silos, forts, ice houses, or windmills may be extremely difficult to adapt to new uses without major intervention and a resulting loss of historic character and even integrity.
- **Mandated code requirements.** Regardless of the treatment, code requirements will need to be taken into consideration. But if hastily or poorly designed, code-required work may jeopardize a building's materials as well as its historic character. Thus, if a building needs to be seismically upgraded, modifications to the historic appearance should be minimal. Abatement of lead paint and asbestos within historic buildings requires particular care if important historic finishes are not to be adversely affected. Finally, alterations and new construction needed to meet accessibility requirements under the Americans with Disabilities Act of

1990 should be designed to minimize material loss and visual change to a historic building.

- The [Guidelines for the Treatment of Historic Properties](#) illustrate the practical application of each treatment to historic properties. These Guidelines are also available in [PDF format](#) and are [sold in printed format](#).”

Source: <http://www.nps.gov/tps/standards/four-treatments.htm>





## Appendix 4: Trees and Plantings

### **Old Berlin Cemetery Evaluation of Sycamore Tree**

(courtesy D. Ellis)

On May 5, 2015, Jeff Batson and Diane Ellis met with Tony Murdock, an arborist from Frederick who was referred to us by the University of Maryland Agricultural Extension Service. He estimates this tree to be about 150 years old. He says most sycamores don't live that long and they are susceptible to a disease that eventually kills them. Overall, he said the tree is not in imminent danger. There are no signs of wood borers. It is leafing out well and appears reasonably healthy. He made the following suggestions to keep the tree healthy and attractive:

- Pruning: remove “water sprouts” – the small limbs that have sprouted all over. He says these are a result of prior over-pruning that removed one-third or more of the tree canopy. Also cut back the stubs of previously pruned branches to just in front of the limb collar.
- Remove honeysuckle from the tree trunk without taking off the bark. Although he said bark removal is not necessarily harmful.
- Mulching: edge the ground 10 feet out from the tree and put down mulch.
- Fertilize: deep root fertilization, which could extend a great distance from the trunk to reach all the roots.

He recommended local tree service companies who could provide the best service for this work:

Bartlett Tree Experts, Dan Yates, 240-529-6159

Arbortech

Appalachian Tree Service, Alan Nichols, 301-473-4370

Tony Murdock, Arborist and Master Gardener

103 Locust Street, Frederick, MD 21703

Cell 240-626-9193

[finepruning@msn.com](mailto:finepruning@msn.com)



William Donald Schafer  
*Governor*

**Maryland Department of Natural Resources**  
**Forest, Park and Wildlife Service**  
Rt. 8, Box 22  
Navers Crossroad  
Cumberland, Maryland 21502

Torrey C. Brown, M.D.  
*Secretary*

Donald E. MacLachlan  
*Assistant Secretary*

August 3, 1992

Mrs Mary Margarabe  
Brunswick History Commission  
20 A Street  
Brunswick, MD 21716

Dear Mrs Margarabe:

In regards to your inquiry about the age of the Sycamore tree located in the cemetery at the end of Brunswick Street, our closest guess is that this tree is 150 years old. The two gentlemen who measured this tree for the Big Tree Championship Program were the source of this estimate. My guess is that this tree was planted soon after the cemetery was established.

Incidentally, this tree is the eighth largest Sycamore inventoried across Maryland and the largest Sycamore found in Frederick County. The measurements of the tree are as follows: Circumference 13 feet, Height 130 feet, Spread 93 feet, Total Points 309.3. As a comparison the largest Sycamore found in Maryland is located in Carroll County with the following dimensions: Circumference 25 feet 5 inches, Height 144 feet, Spread 89 feet, Total Points 471.3.

The Sycamore, also called Planetree, is well distributed throughout the United States east of the Mississippi River. Sycamores grow most frequently in wet areas. They are commonly found along stream banks and bottomlands. Sycamores are one of the few trees that can tolerate extremely wet conditions. The Sycamore has been nominated as the official tree for Frederick County.

Sycamores flower in May and produce their seed in the Fall. This light, wind dispersed seed, which is clustered in brown colored balls, usually stays on the tree over winter and is dispersed during the Springtime.

The stately Planetree is one of our fastest growing, largest, and longest lived trees in the Eastern United States. A Sycamore estimated to be 300 years old, 160 feet tall, with a circumference of 33 feet was measured in Indiana. Maryland's largest Planetree is located in Carroll County.

Telephone: \_\_\_\_\_  
DNR TTY for the Deaf: 301 974 3683



## Appendix 5: Gravestone Condition Assessments







## Appendix 6: Maryland Cemetery Law

**Note:** This document was compiled by staff of the Maryland Historical Trust using the Code and Rules of Maryland. It was the intent to include any Code or Rules pertaining to the treatment of burial sites or human remains. Those parts of Maryland Code that concern the business of burial and cemetery operation were excluded. This document is provided for informational purposes only and should not be relied of as accurate or comprehensive. Interested individuals should consult a current copy of the Code of Maryland procured from a trusted source. This document was updated on September 2, 2014.

### **Maryland Code: Criminal Law:** **Title 10. Crimes Against Public Health, Conduct, and Sensibilities:** **Subtitle 4. Crimes Relating to Human Remains**

#### **§ 10-401. Definitions.**

- (a) In general. -- In this subtitle the following words have the meanings indicated.

##### **Revisor's Note.**

This subsection is new language derived without substantive change from former Art. 27, § 265(a)(1) and the introductory language of former §§ 267(a)(1) and 267A(a)(1).

In this subsection, the reference to this "subtitle" is substituted for the former references to "subheading" and this "section" to reflect the reorganization of material derived from the former subheadings on the removal of human remains from burial sites, graveyard desecration, and trading in human remains and associated funerary objects. Although this substitution applies the defined term "permanent cemetery" in § 10-404(e), which is derived from former Art. 27, § 267(d), a provision to which it did not originally apply, the term is used in a manner consistent with the term "permanent cemetery" used in the former law. No substantive change is intended.

- (b) Associated funerary object. --

- (1) "Associated funerary object" means an item of human manufacture or use that is intentionally placed:
  - (i) with human remains at the time of interment in a burial site; or
  - (ii) after interment, as a part of a death ceremony of a culture, religion, or group.
- (2) "Associated funerary object" includes a gravestone, monument, tomb, or other structure in or directly associated with a burial site.

##### **Revisor's Note.**

This subsection is new language substituted for former Art. 27, §§ 265(a)(2), 267(a), and 267A(a) as they defined "associated funerary object".

In this subsection and throughout this subtitle, the defined term "funerary object" is substituted for the former defined term "associated funerary object" for brevity.

In this subsection, the reference to placement "after interment" is substituted for the former reference to "later" placement for clarity.

(c) Burial site. --

(1) "Burial site" means a natural or prepared physical location, whether originally located below, on, or above the surface of the earth, into which human remains or associated funerary objects are deposited as a part of a death ceremony of a culture, religion, or group.

(2) "Burial site" includes the human remains and associated funerary objects that result from a shipwreck or accident and are left intentionally to remain at the site.

**Revisor's Note.**

This subsection is new language substituted for former Art. 27, § 265(a)(3).

In this subsection and throughout this subtitle, the former references to a death "rite" are deleted as included in the references to a death "ceremony".

(d) Permanent cemetery. -- "Permanent cemetery" means a cemetery that is owned by:

- (1) a cemetery company regulated under Title 5 of the Business Regulation Article;
- (2) a nonprofit organization; or
- (3) the State.

**Revisor's Note.**

This subsection formerly was Art. 27, § 265(a)(4).  
No changes are made.

[HISTORY: An. Code 1957, art. 27, §§ 265(a), 267(a), 267A(a); 2002, ch. 26, § 2; 2003, ch. 21, § 1; 2009, ch. 675.]

**§ 10-402. Removing human remains without authority.**

(a) Prohibited. -- Except as provided in subsections (b) and (f) of this section, a person may not remove or attempt to remove human remains from a burial site.

(b) Exception. -- Subject to subsection (c) of this section, the State's Attorney for a county may authorize in writing the removal of human remains from a burial site in the State's Attorney's jurisdiction:

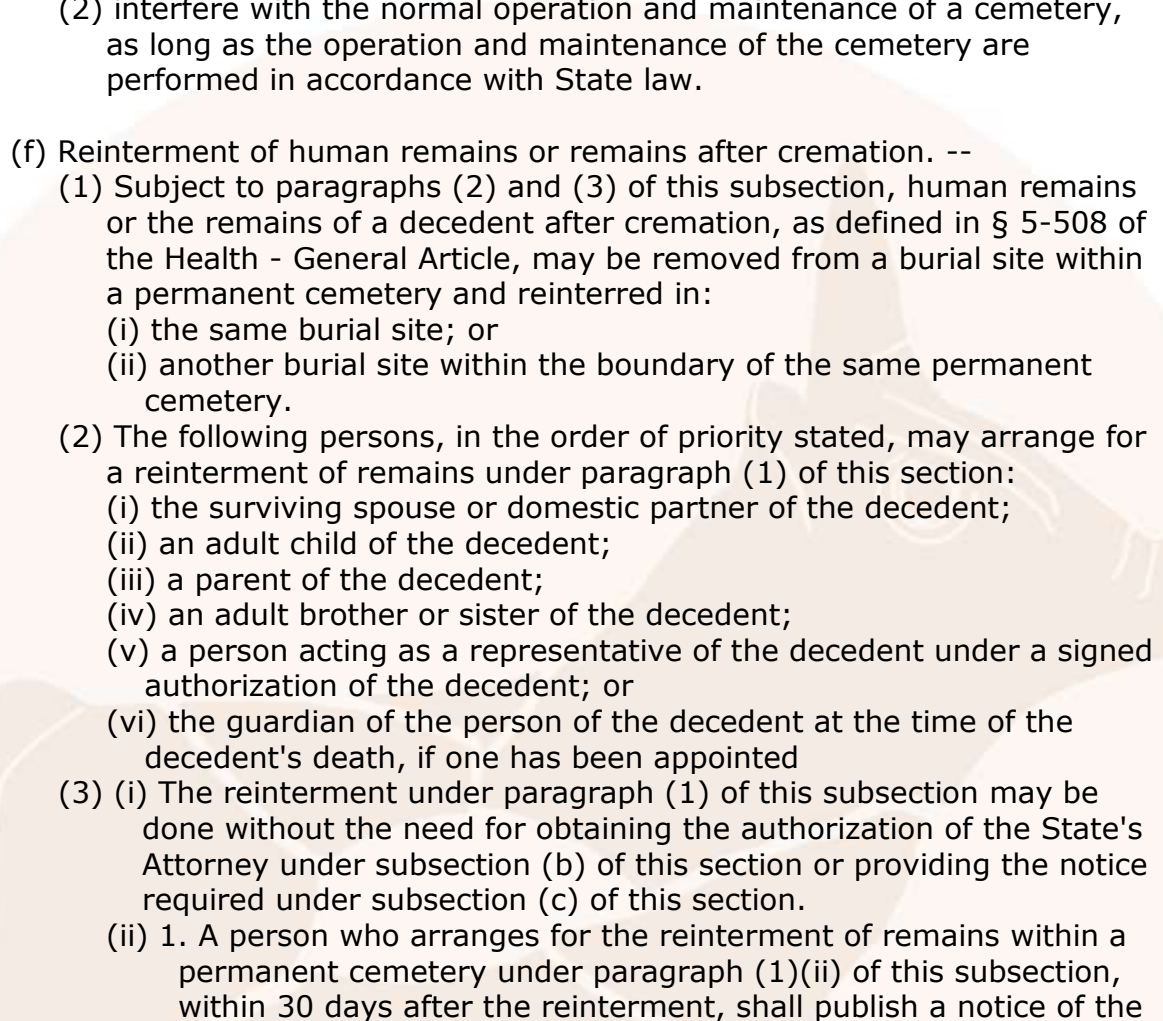
- (1) to ascertain the cause of death of the person whose remains are to be removed;
- (2) to determine whether the human remains were interred erroneously;
- (3) for the purpose of reburial; or
- (4) for medical or scientific examination or study allowed by law.

(c) Exception -- Notice. --

- (1) Except as provided in paragraph (4) of this subsection, the State's Attorney for a county shall require a person who requests authorization to relocate permanently human remains from a burial site to publish a notice of the proposed relocation in a newspaper of general circulation in the county where the burial site is located.
- (2) The notice shall be published in the newspaper one time.
- (3) The notice shall contain:
  - (i) a statement that authorization from the State's Attorney is being requested to remove human remains from a burial site;
  - (ii) the purpose for which the authorization is being requested;
  - (iii) the location of the burial site, including the tax map and parcel number or liber and folio number; and
  - (iv) all known pertinent information concerning the burial site, including the names of the persons whose human remains are interred in the burial site, if known.
- (4)
  - (i) The State's Attorney may authorize the temporary relocation of human remains from a burial site for good cause, notwithstanding the notice requirements of this subsection.
  - (ii) If the person requesting the authorization subsequently intends to relocate the remains permanently, the person promptly shall publish notice as required under this subsection.
- (5) The person requesting the authorization from the State's Attorney shall pay the cost of publishing the notice.
- (6) The State's Attorney may authorize the removal of the human remains from the burial site after:
  - (i) receiving proof of the publication required under paragraph (1) of this subsection; and
  - (ii) 15 days after the date of publication.
- (7) This subsection may not be construed to delay, prohibit, or otherwise limit the State's Attorney's authorization for the removal of human remains from a burial site.
- (8) For a known, but not necessarily documented, unmarked burial site, the person requesting authorization for the removal of human remains from the burial site has the burden of proving by archaeological excavation or another acceptable method the precise location and boundaries of the burial site.

(d) Exception -- Reinterment. --

- (1) Any human remains that are removed from a burial site under this section shall be reinterred in:
  - (i) 1. a permanent cemetery that provides perpetual care; or

- 
2. a place other than a permanent cemetery with the agreement of a person in interest as defined under § 14-121(a)(4) of the Real Property Article; and
  - (ii) in the presence of:
    1. a mortician, professional cemeterian, or other individual qualified in the interment of human remains;
    2. a minister, priest, or other religious leader; or
    3. a trained anthropologist or archaeologist.
  - (2) The location of the final disposition and treatment of human remains that are removed from a burial site under this section shall be entered into the local burial sites inventory or, if no local burial sites inventory exists, into a record or inventory deemed appropriate by the State's Attorney or the Maryland Historical Trust.
- (e) Construction of section. -- This section may not be construed to:
- (1) preempt the need for a permit required by the Department of Health and Mental Hygiene under § 4-215 of the Health - General Article to remove human remains from a burial site; or
  - (2) interfere with the normal operation and maintenance of a cemetery, as long as the operation and maintenance of the cemetery are performed in accordance with State law.
- (f) Reinterment of human remains or remains after cremation. --
- (1) Subject to paragraphs (2) and (3) of this subsection, human remains or the remains of a decedent after cremation, as defined in § 5-508 of the Health - General Article, may be removed from a burial site within a permanent cemetery and reinterred in:
    - (i) the same burial site; or
    - (ii) another burial site within the boundary of the same permanent cemetery.
  - (2) The following persons, in the order of priority stated, may arrange for a reinterment of remains under paragraph (1) of this section:
    - (i) the surviving spouse or domestic partner of the decedent;
    - (ii) an adult child of the decedent;
    - (iii) a parent of the decedent;
    - (iv) an adult brother or sister of the decedent;
    - (v) a person acting as a representative of the decedent under a signed authorization of the decedent; or
    - (vi) the guardian of the person of the decedent at the time of the decedent's death, if one has been appointed
  - (3) (i) The reinterment under paragraph (1) of this subsection may be done without the need for obtaining the authorization of the State's Attorney under subsection (b) of this section or providing the notice required under subsection (c) of this section.
  - (ii) 1. A person who arranges for the reinterment of remains within a permanent cemetery under paragraph (1)(ii) of this subsection, within 30 days after the reinterment, shall publish a notice of the



reinterment in a newspaper of general circulation in the county where the permanent cemetery is located.

2. The notice shall be published in the newspaper one time.

3. The notice shall contain:

A. a statement that the reinterment took place;

B. the reason for the reinterment;

C. the location of the burial site from which remains have been removed, including the tax map and parcel number or liber and folio number;

D. the location of the burial site in which the remains have been reinterred, including the tax map and parcel number or liber and folio number; and

E. all known pertinent information concerning the burial sites, including the names of the persons whose cremated remains or human remains are interred in the burial sites, if known.

(iii) Within 45 days after the reinterment, a person who arranges for a reinterment of remains under paragraph (1)(ii) of this subsection shall provide a copy of the notice required under this paragraph to the Office of Cemetery Oversight.

(4) The location of a reinterment of remains under paragraph (1) of this subsection shall be entered into the inventory of the local burial sites or, if no inventory exists, into a record or inventory deemed appropriate by the Maryland Historical Trust.

(g) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 10,000 or both.

(h) Statute of limitations and in banc review. -- A person who violates this section is subject to § 5-106(b) of the Courts Article.

[HISTORY: An. Code 1957, art. 27, § 265(b)-(g); 2002, ch. 26, § 2; 2009, ch. 675.]

### **§ 10-403. Removal of human remains or funerary object.**

(a) Scope of section. -- This section does not apply to:

(1) a person acting in the course of medical, archaeological, educational, or scientific study;

(2) a licensed mortician or other professional who transports human remains in the course of carrying out professional duties; or

(3) a person acting under the authority of:

(i) § 10-402 of this subtitle; or

(ii) § 4-215 or § 5-408 of the Health - General Article.

(b) Prohibited. -- A person may not knowingly sell, buy, or transport for sale or profit, or offer to buy, sell, or transport for sale or profit:

(1) unlawfully removed human remains; or

- (2) an associated funerary object obtained in violation of § 10-404 of this subtitle.
- (c) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 5,000 or both.
- (d) Appropriation and disposition. -- The Maryland Historical Trust may appropriate all human remains and associated funerary objects obtained in violation of this subtitle for management, care, and administration until a determination of final disposition as provided by law.
- (e) Construction of section. -- This section may not be construed to interfere with the normal operation and maintenance of a cemetery including:
  - (1) correction of improper burial siting; and
  - (2) moving the human remains within a cemetery with the consent of a person who qualifies as an heir as defined in § 1-101 of the Estates and Trusts Article.

[HISTORY: An. Code 1957, art. 27, § 267A(b)-(d); 2002, ch. 26, § 2; 2003, ch. 21, § 1.]

#### **§ 10-404. Cemetery - Destroying funerary objects; indecent conduct.**

- (a) Prohibited -- Destruction of funerary object; exception for repair or replacement. --
  - (1) Subject to the provisions of paragraph (2) of this subsection, a person may not willfully destroy, damage, deface, or remove:
    - (i) an associated funerary object or another structure placed in a cemetery; or
    - (ii) a building, wall, fence, railing, or other work, for the use, protection, or ornamentation of a cemetery.
  - (2) The provisions of paragraph (1) of this subsection do not prohibit the removal of a funerary object or a building, wall, fence, railing, or other object installed for the use, protection, or ornamentation of a cemetery or burial site, for the purpose of repair or replacement, either at the request of or with the permission of heirs or descendants of the deceased or the owner or manager of the cemetery or burial site.
- (b) Prohibited -- Destruction of foliage; exception for routine care and maintenance. --
  - (1) Subject to the provisions of paragraph (2) of this subsection, a person may not willfully destroy, damage, or remove a tree, plant, or shrub in a cemetery.
  - (2) The provisions of paragraph (1) of this subsection do not prohibit normal maintenance of a cemetery or burial site, including trimming of

trees and shrubs, removal of weeds or noxious growths, grass cutting, or other routine care and maintenance.

- (c) Prohibited -- Indecent or disorderly conduct. -- A person may not engage in indecent or disorderly conduct in a cemetery.
- (d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
  - (1) for a violation of subsection (a) of this section, imprisonment not exceeding 5 years or a fine not exceeding \$ 10,000 or both; and
  - (2) for a violation of subsection (b) or (c) of this section, imprisonment not exceeding 2 years or a fine not exceeding \$ 500 or both.
- (e) Penalty -- Payment for restoration. -- A person who violates this section shall pay for the restoration of any damaged or defaced real or personal property in a cemetery to the owner of the property or the owner of the cemetery.
- (f) Construction of section. -- This section does not prohibit the removal of human remains or a funerary object from an abandoned cemetery if:
  - (1) the removal is authorized in writing by the State's Attorney of the county in which the cemetery containing the human remains or funerary object is located; and
  - (2) the human remains or funerary object are placed in an accessible place in a permanent cemetery.

[HISTORY: An. Code 1957, art. 27, § 267(b)-(d); 2002, ch. 26, § 2; 2003, ch. 21, § 1; 2005, ch. 208; 2006, ch. 38; 2008, ch. 268.]

**Maryland Code: Health-General: Title 4. Statistics and Records**  
**Subtitle 2. Vital Statistics and Records**

**§ 4-215. Burial permits, final disposition, transportation, and disinterment.**

- (a) "Cemetery" defined. -- In this section, "cemetery" includes a crematory or other place for final disposition.
- (b) Burial-transit permit required. --
  - (1) Within 72 hours after death or after delivery in a fetal death and before final disposition or removal of the body or fetus from this State, the mortician who first takes custody of the body or fetus shall obtain a burial-transit permit.
  - (2) If the death or fetal death certificate is on a multicopy form, one copy of which is designated specifically as a "burial-transit permit" and is signed by the attending physician or medical examiner, that copy shall

provide for the later entry of final disposition information and serves as a burial-transit permit.

- (c) Duty of person in charge of cemetery. --
  - (1) A person in charge of a cemetery may not permit the final disposition of a body or fetus unless it is accompanied by a burial-transit permit.
  - (2) The person in charge of a cemetery shall:
    - (i) Write on the permit the date of final disposition;
    - (ii) Sign the permit; and
    - (iii) Within 10 days after final disposition, return the permit to the Secretary.
  - (3) If there is no person in charge of the cemetery, the mortician shall fill out the burial-transit permit.
- (d) Permit is authority throughout State. -- A burial-transit permit issued by any state or a foreign country is sufficient authority for transit through this State or final disposition in any cemetery in this State.
- (e) Permit for disinterment and reinterment; inspection of permit record. --
  - (1) A permit for disinterment and reinterment is required before the disinterment of human remains if reinterment is not to be made in the same cemetery. The Secretary or a health officer shall issue the permit after receipt of an application on the form that the Secretary requires.
  - (2) If all human remains in a cemetery are to be disinterred for purposes of relocation or abandonment of the cemetery, one application is sufficient for that purpose.
  - (3) The Department shall keep a record of each permit issued for the disinterment and reinterment of human remains.
  - (4) Except as provided in paragraph (5) of this subsection, the Department may not disclose or allow public inspection of information in a permit record about the location of the site of a disinterment or reinterment if a local burial sites advisory board or the Director of the Maryland Historical Trust determines that:
    - (i) The site is historic property, as defined in § 5A-301 of the State Finance and Procurement Article; and
    - (ii) Disclosure would create a substantial risk of harm, theft, or destruction to the site.
  - (5) The Department may not deny inspection of a permit record to:
    - (i) The owner of the site of the disinterment or reinterment;
    - (ii) A governmental entity that has the power of eminent domain; or
    - (iii) The spouse, domestic partner, next of kin, or appointed personal representative of the deceased whose human remains have been disinterred or reinterred.

[HISTORY: An. Code 1957, art. 43, § 22; 1982, ch. 21, § 2; 1995, ch. 401; 2005, ch. 44, § 1; ch. 440, § 3; 2008, ch. 590.]



**Maryland Code: Real Property Article**  
**Title 14. Miscellaneous Rules**  
**Subtitle 1. Miscellaneous Rules.**

**§ 14-121. Burial sites - Access.**

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) (i) "Burial site" means any natural or prepared physical location, whether originally located below, on, or above the surface of the earth into which human remains or associated funerary objects are deposited as a part of a death rite or ceremony of any culture, religion, or group.

(ii) "Burial site" includes the human remains and associated funerary objects that result from a shipwreck or accident and are intentionally left to remain at the site.

(3) "Cultural affiliation" means a relationship of shared group identity that can be reasonably traced historically between a present-day group, tribe, band, or clan and an identifiable earlier group.

(4) "Person in interest" means a person who:

(i) Is related by blood or marriage to the person interred in a burial site;

(ii) Is a domestic partner, as defined in § 1-101 of the Health - General Article, of a person interred in a burial site;

(iii) Has a cultural affiliation with the person interred in a burial site; or

(iv) Has an interest in a burial site that the Office of the State's Attorney for the county where the burial site is located recognizes is in the public interest after consultation with a local burial sites advisory board or, if such a board does not exist, the Maryland Historical Trust.

(b) Request for access -- Restoration, maintenance or viewing. -- Any person in interest may request the owner of a burial site or of the land encompassing a burial site that has been documented or recognized as a burial site by the public or any person in interest to grant reasonable access to the burial site for the purpose of restoring, maintaining, or viewing the burial site.

(c) Request for access -- Agreements. --

(1) A person requesting access to a burial site under subsection (b) or (d) of this section may execute an agreement with the owner of the burial site or of the land encompassing the burial site using a form similar to the form below:

## "Permission to Enter

I hereby grant the person named below permission to enter my property, subject to the terms of the agreement, on the following dates:

Signed .....

(Landowner)

## Agreement

In return for the privilege of entering on the private property for the purpose of restoring, maintaining, or viewing the burial site or transporting human remains to the burial site, I agree to adhere to every law, observe every safety precaution and practice, take every precaution against fire, and assume all responsibility and liability for my person and my property, while on the landowner's property.

Signed"

- (2) The owner of the burial site or of the land encompassing the burial site may grant access to the burial site in accordance with the terms of the agreement signed under paragraph (1) of this subsection.
- (d) Request for access -- Interments. -- In addition to the provisions of subsection (b) of this section, if burials are still taking place at a burial site, any person who is related by blood or marriage, heir, appointed representative, or any other person in interest may request the owner of the land encompassing the burial site to grant reasonable access to the

burial site for the purpose of transporting human remains to the burial site to inter the remains of a person for whose burial the site is dedicated, if access has not been provided in a covenant or deed of record describing the metes and bounds of the burial site.

- (e) Liability of owner. -- Except for willful or malicious acts or omissions, the owner of a burial site or of the land encompassing a burial site who allows persons to enter or go on the land for the purposes provided in subsections (b) and (d) of this section is not liable for damages in a civil action to a person who enters on the land for injury to person or property.
- (f) Reporting location to Supervisor of Assessments; notation on tax maps. --
  - (1) An owner of a burial site, a person who is related by blood or marriage to the person interred in a burial site, heir, appointed representative, or any other person in interest, or any other person may report the location of a burial site to the supervisor of assessments for a county, together with supporting documentation concerning the location and nature of the burial site.
  - (2) The supervisor of assessments for a county may note the presence of a burial site on a parcel on the county tax maps maintained under § 2-213 of the Tax - Property Article.
- (g) Scope of section. -- Nothing in this section may be construed to interfere with the normal operation and maintenance of a public or private cemetery being operated in accordance with State law.

[HISTORY: 1994, ch. 203; 2008, ch. 590.]

#### **§ 14-122. Same - County or municipal maintenance; funding.**

- (a) "Burial site" defined. -- In this section, "burial site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth into which human remains are deposited as a part of a death rite or ceremony of any culture, religion, or group.
- (b) County or municipal maintenance. -- Any county or municipal corporation that has within its jurisdiction a burial site in need of repair or maintenance may, upon the request of the owner or with permission of the owner of the burial site in need of repair or maintenance, maintain and preserve the burial site for the owner.
- (c) Funding. -- In order to maintain and preserve a burial site or to repair or restore fences, tombs, monuments, or other structures located in a burial site, a county or municipal corporation may:
  - (1) Appropriate money and solicit donations from individuals or public or private corporations;

- (2) Provide incentives for charitable organizations or community groups to donate their services; and
- (3) Develop a community service program through which individuals required to perform community service hours under a sentence of a court or students may satisfy community service requirements or volunteer their services.

[HISTORY: 1994, ch. 203.]

**Maryland Code: Maryland Rules**  
**Title 14. Sales of Property**  
**Chapter 400. Burial Ground**

**Rule 14-401. Sale for other use**

- (a) Venue. An action for sale of a burial ground for a use other than burial purposes shall be brought in the county in which the burial ground is located. When the burial ground is located in more than one county, the action may be brought in any county in which all or any part of the burial ground is located.
- (b) Complaint. The action for sale of a burial ground shall be commenced by filing a complaint that, in addition to complying with Rules 2-303 through 2-305, shall contain:
  - (1) a description of the burial ground sufficient to enable it to be located,
  - (2) a statement that the ground has been dedicated and used for burial purposes,
  - (3) a statement that the burial ground has ceased to be used for burial purposes,
  - (4) a list of names and last known addresses of all known lot owners, or their assignees, if any, and
  - (5) a statement of the reasons why it is desirable to sell the burial ground for other uses.

*Cross references. -- See Code, Business Regulation Article, § 5-505, which authorizes a proceeding for the sale of a burial ground that has ceased to be used for such purposes.*

*For sale of cemeteries in Baltimore City where more than 75% of acreage has been abandoned or becomes a menace, see Code, Business Regulation Article, § 5-506.*

*As to certain cemeteries in Carroll County, see Code, Real Property Article, § 14-119.*



*As to exemption of lots held only for burial from attachment or execution and insolvency laws, see Code, Business Regulation Article, § 5-503.*

*As to condemnation of cemeteries, see Rule 12-204.*

- (c) Notice -- Publication and posting. Upon the filing of the complaint, the clerk shall issue a notice instead of a summons. The notice shall be signed by the clerk and shall (1) include the caption of the action, (2) describe the substance of the complaint and the relief sought, and (3) inform all lot owners or other persons in interest of the latest date by which a response may be filed. The notice shall be published as provided in Rule 2-122, and a copy of the notice shall be posted in a conspicuous place on the property and at all principal gates or entrances to the burial ground. Additionally, a copy of the notice shall be sent by ordinary mail to each person whose name and last known address are listed in the complaint pursuant to subsection (b) (4) of this Rule.
- (d) Proceedings when no response filed. If no party in interest appears in response to the notice, the action shall proceed ex parte. The court may order testimony to be taken and enter judgment as it deems proper.

[HISTORY: (Amended Jan. 20, 1999, effective July 1, 1999.)]

## Appendix 7: Cost Estimates

